

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 :

-against- :
 :

KHALID AL FAWWAZ, :
ADEL ABDEL BARY, :
ANAS AL LIBY :
 :
Defendants, :
-----X

98 Cr. 1023 (LAK)

JOINT DEFENSE PROPOSED QUESTIONNAIRE

Attached is a proposed questionnaire submitted on behalf of all defendants. Given the jury trial date in this matter in eight weeks, and considering the high profile nature of this prosecution with its attendant media exposure, which may affect substantive and material issues involving jury selection, the defendants reserve the right to amend, expand and enhance this questionnaire. All defendants respectfully submit this questionnaire, which is not intended as a substitute for comprehensive in court *voir dire*, but rather to facilitate and focus the jury selection process on questions that must be asked of jurors to assure a fair trial. The defense reserves the right to request individual sequestered *voir dire* on the sensitive issues that are identified from the questionnaire.

Finally, mindful of this Court's suggestion, in its Order of July 29, 2014, that the questionnaires given in the *Ghailani* and *Abu Ghayth* trials might serve as models in this case, the defense has selected a number of those questions for inclusion herein.

Dated: New York, New York
September 10, 2014

/s/ Linda M. Moreno

LINDA M. MORENO

Andrew G. Patel

Lauren S. Kessler

Jill R. Shellow

Attorneys for Adel Abdel Bary

Bobbi C. Sternheim

David V. Kirby

Barbara E. O'Connor

Attorneys for Khalid Al Fawwaz

Bernard V. Kleinman

Attorney for Anas al Liby

QUESTIONNAIRE

The purpose of this questionnaire is to provide guidance to the attorneys and the Judge in deciding who is qualified to serve on this particular case. Please answer the questions as honestly and completely as possible. There are no "right" or "wrong" answers; there are only truthful answers. It is important that you are completely candid as to your actual views and feelings. It is also important that your answers to the questionnaire be yours and yours alone. Do not discuss the questionnaire or your answers with anyone. If you do not understand a question, say so on the questionnaire. If a question touches on an especially personal or sensitive matter, please answer "private" and you will be given the opportunity to discuss the matter in private at a later time. You must sign this questionnaire on the last page and your answers will have the effect of a statement made under oath to the Court.

The trial is expected to last 2 to 3 months. In general, the trial will be held Monday through Thursday, 9:30 a.m. until 4:30 p.m., although there will be some shorter work weeks and the hours and days may vary from time to time.

Court will not be held during the following breaks and holidays:

NOVEMBER 4, 2014 (Election Day)

NOVEMBER 11, 2014 (Veteran's Day)

NOVEMBER 26-28, 2014 (Thanksgiving)

DECEMBER 23-JANUARY 5, 2014

JANUARY 19, 2015 (Martin Luther King Day)

FEBRUARY 16, 2015 (President's Day)

Please PRINT your answers in INK and write your juror number on every page in the space provided.

Hardship

1. Would serving on this jury cause you undue hardship or extreme inconvenience?

Yes No

If YES, what is your hardship? Please fully explain.

2. What arrangements, if any, can you make to alleviate your hardship?

3. Do you have any medical condition that would make it difficult for you to serve as a juror on this case?

Yes No

If Yes, please list condition(s):

4. Are you taking any prescription medication that may interfere with your ability to concentrate or serve as a juror in any way?

Yes No

If Yes, please list medication(s) and effect(s):

5. Are you employed?

Yes No

a. What is your occupation?

b. Are you retired?

Yes No

c. What was your occupation?

6. If employed, will you be paid while you serve jury duty?

Yes No Unsure

Would service cause severe economic hardship to your employer?

Yes No

If Yes, Please Explain:

Background

7. Do you have any difficulty understanding, speaking or reading the English language?

Yes No

8. Highest level of education you have completed Less than high school
(Grade _____)

High school graduate Technical/Vocational Some college A.A.
Degree

4-year college graduate Post-graduate study Postgraduate degree

a. Please list any licenses, certificates or degrees you have obtained:

9. What is your employment status? Employed full-time Employed part-time
 Self-employed Unemployed/looking for work Retired Homemaker
 Disabled Student

10. What is your most recent occupation?

11. What is the occupation of your current (or former) spouse/partner?

Description of the Case

In this case, the government accuses the three men charged of conspiring to murder United States citizens abroad and destroy United States property. One of the men is charged with additional offenses. In particular, all the charges are based on the destruction of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania in August of 1998. The government believes the bombings were carried out by al Qaeda and that the men are associated in various ways with that group. They deny all allegations.

Opinions Based on Nature of Charges

12. Based on the nature of the charges, what is your opinion, if any, about this case or the individuals accused?

Explain: _____

a. Now that you have heard the nature of the charges, please explain whether you believe that you could fairly and impartially serve as a juror in this case?

Yes No Unsure

Explain: _____

13. Do the allegations that the 1998 plot that destroyed the U.S. embassies in Africa was associated with al Qaeda cause you to believe that you could not serve fairly and impartially as a juror in this case?

Yes No Unsure

Explain: _____

14. There may be evidence of videos and recordings of Usama bin Laden and his speeches. Would such evidence interfere with your ability to sit fairly and impartially in hearing the evidence or the lack of evidence?

Yes No Unsure

Explain: _____

15. There may be evidence of videos, photographs and testimony regarding the deaths of many people and destruction of the American embassies in Kenya and Tanzania. Would such evidence interfere with your ability to be fair and impartial in evaluating all the evidence or the lack of evidence in this case?

Yes No Unsure

Explain _____

16. Have you formed an opinion as to the innocence or guilt of any of the accused in this case before hearing the evidence?

____ Guilty ____ Not Guilty ____ No decision

Explain: _____

17. The terrorist attacks in the United States, including on the World Trade Center and the Pentagon on September 11, 2001, are not at issue in this case. Nevertheless, have you had any personal experiences or do you have any feelings arising from those attacks that you believe would interfere with your ability to serve fairly and impartially as a juror in this case?

Yes No Unsure

Explain: _____

18. Did you **personally** know anyone who was killed in the attacks on September 11, 2001?

Yes No

If yes, please describe your relationship to that person(s): _____

19. Have you or anyone you know ever been first responders or involved in any rescue or relief efforts after a terrorist attack, including the attacks on September 11, 2001?

Yes No

If yes, please describe your relationship to that person(s): _____

20. Have you had any personal experiences or do you have any feelings arising from any other terrorist attacks on the United States or anywhere else in the world or on anyone else that you believe would interfere with your ability to serve fairly and impartially as a juror in this case?

Yes No Unsure

Explain: _____

21. On a scale of 1 to 5, how afraid are you that you, a family member, or someone close to you will be killed or injured in a terrorist attack? ("1"=not afraid; "5"=very afraid)
Select a number from 1 to 5 _____

22. Have you, any family member, any close friend or colleague been a victim of terrorism, either in this country or abroad?

Yes No Unsure

Explain: _____

23. Have you or any family members or close friends had any personal experience with acts of terrorism?

Yes No Unsure

Explain: _____

If yes, how would that experience affect your ability to fairly and without bias sit as a juror in this case?

24. Much of the conduct at issue in this case took place outside the United States, principally in Tanzania and Kenya. United States law provides that persons engaged in conduct occurring outside the United States may nevertheless be charged in United States courts for violations of federal laws that protect Americans abroad. Do you believe that conduct that takes place outside of the United States should not be a basis for American criminal charges or should not be considered by an American court?

Yes No Unsure

Explain: _____

25. Do you have any feelings about methods the United States has used in responding to terrorism-including, for example, the use of military force, the detention of terror suspects by the CIA or by the Defense Department at Guantanamo Bay, or the kidnapping of individuals from their homeland without the knowledge or agreement of the home country-that you believe would interfere with your ability to serve impartially as a juror in this case?

Yes No Unsure

Explain: _____

a. What is your opinion of the government's effort to fight terrorism?

Explain: _____

Anonymity

26. You may serve on this jury anonymously, to protect your privacy as a juror. This may require that you be picked up by drivers working for the Court at an undisclosed location and transported each day to the courthouse, that you be kept sequestered while there, and that your identity will be safe-guarded in various ways by the Court. How do you feel about such precautions and concerns for your privacy?

____ Not concerned ____ Somewhat Concerned ____ Very Concerned

- a. Will such treatment cause you any concerns and, if so, what are they?
- b. Would it cause you to believe you might be in any sort of danger or subject to reprisal?,
- c. Would it make you believe that you are in danger from the men on trial, terrorists or terrorist reprisal, and would such belief render you unable to be fair and impartial in hearing the evidence or lack of evidence in this case?
- d. Does the fact that your name and address will not be disclosed make you feel that there is reason to be fearful of the defendant or persons affiliated with him?

Yes No Unsure

Explain: _____

Personal Beliefs re: Islam

27. What is your view of Muslims or the Islamic faith?

a. How did you come to that view?

28. Is there anything about Islamic teachings or doctrine that is personally offensive to you?

Yes No Unsure

Explain: _____

29. Do you have an opinion whether Muslims are more violent than non Muslims?

Yes No Unsure

Explain: _____

30. Do you consider Islam an anti-Jewish faith or an anti-Christian faith?

Yes No Unsure

Explain: _____

31. In what contexts have you had personal contact with people who are Muslims, or of Arabic descent? (Please check all answers that apply.)

- ___ in the family
- ___ in the neighborhood
- ___ in organizations
- ___ through work/business
- ___ in place of worship
- ___ in school
- ___ none
- ___ other: _____

32. Have you had any experience(s) with Muslims or Arabs that might cause any prejudice against them?

Yes No Unsure

If Yes, please describe your experience(s) and the reasons for your opinion.

If yes, how would that experience affect your ability to sit as a fair and impartial juror in this case?

33. Do you have any fear about Muslims, Arabs or persons of Middle Eastern background living in your community?

Yes No Unsure

Explain: _____

34. Do you believe Muslims generally support terrorist acts carried out in the name of the Islamic faith?

Yes No Unsure

Explain: _____

35. One or more of the men charged in this case may have beards as required by Muslim practices. Is there anything about their facial hair that would affect your ability to be fair and impartial?

Yes No Unsure

Explain: _____

36. One or more of the men charged in this case may be dressed in traditional Muslim clothing, including a skullcap. Is there anything about their attire that would affect your ability to be fair and impartial?

Yes No Unsure

Explain: _____

37. To what extent do you agree or disagree with the following statements?

I don't trust Arab people.

Strongly Agree	Somewhat Agree	Slightly Agree	Slightly Disagree	Somewhat Disagree	Strongly Disagree	No Opinion
----------------	----------------	----------------	-------------------	-------------------	-------------------	------------

Muslim people want to kill everyone who does not believe in their religion.

Strongly Agree	Somewhat Agree	Slightly Agree	Slightly Disagree	Somewhat Disagree	Strongly Disagree	No Opinion
----------------	----------------	----------------	-------------------	-------------------	-------------------	------------

Islam (the Muslim religion) promotes violence.

Strongly Agree	Somewhat Agree	Slightly Agree	Slightly Disagree	Somewhat Disagree	Strongly Disagree	No Opinion
----------------	----------------	----------------	-------------------	-------------------	-------------------	------------

38. Do you have any experiences, feelings, impressions or beliefs which would make it difficult for you to listen with an open mind and render a verdict based solely on the evidence presented in court in a case involving Muslims of Arabic descent charged in allegations of conspiracy and murder against U.S. nationals?

 Yes No Unsure

Explain: _____

News Sources

39. Which of the following is your primary source of local, national and international news?

1. Please check all of the news sources that you use regularly.

	Newspapers/Magazines	Television	Internet	Radio
	New York Times	Fox News	The Huffington Post	National Public Radio
	Daily News	MSNBC	Yahoo News	Rush Limbaugh
	New York Post	CNN	Facebook	Glenn Beck
	Wall Street Journal	BBC News	LinkedIn	Local News Radio
	News Day	The Today Show (NBC)	Twitter	

	Washington Post	This Morning (CBS)	Google News		
	Los Angeles Times	Good Morning America (ABC)	Daily Kos		
	The Guardian	The Daily Show/ Colbert Report	AP		
	Washington Times	Real Time with Bill Maher	Reuters		
	USA Today	This Week (ABC)	Politico		
		Meet the Press (NBC)	Christian Science Monitor		
		Face the Nation (CBS)			
		Local Television News			
		Nightly National Network News			

Other (Please describe.):

40. Do you ever listen to political commentators on TV or “talk radio or visit political blog sites on the internet”? Yes No
If Yes, what station(s) and show(s) do you listen to?

41. What national and international news stories have been of particular interest to you?

Knowledge of the Trial Participants and the Case

Because of the publicity surrounding this case, some jurors may have heard and/or read something about the case at some time. There is nothing wrong with having heard/read something about this case. It is important that you truthfully and fully answer the following questions concerning your knowledge about this case and the participants.

The case for which you are summoned involves Khalid al Fawwaz, Adel Abdel Bary and Anas al Liby.

42. Have you seen, heard or read anything about Mr. al Fawwaz, Mr. Abdel Bary, or Mr. al Liby or the bombings of the U.S. embassies in Kenya and Tanzania in 1998?

Yes _____ What? _____

No _____

a. Based on what you have seen, read or heard, please tell us what feelings or opinions you may have formed about this case or the individuals accused.

43. As a result of what you have heard or read about this case, would you be more likely to find any of the men accused Guilty or Not Guilty because of the media's coverage of this case? _____ Guilty _____ Not Guilty _____ Don't know.

Explain: _____

44. Do you have any opinions about the publicity surrounding this case?

Yes No Unsure

Explain: _____

a. Would these feelings make it difficult for you to sit as a fair and impartial juror in this type of case?

If Yes, please explain: _____

45. Have you formed an opinion as to the innocence or guilt of any of the defendants in this case before hearing the evidence?

_____ Guilty _____ Not Guilty _____ No decision

Explain: _____

46. Do you have any biases or feelings for or against defendants in general, lawyers who represent persons accused of crimes, or prosecutors that you believe would interfere with your ability to serve fairly and impartially as a juror in this case?

Yes No Unsure

Explain: _____

Experiences with Law Enforcement and the Legal System

47. Have you ever served as a juror? Yes No If Yes, please check, as appropriate:

Civil Date(s): _____

Nature of case(s):

Criminal Date(s): _____

Nature of case(s):

Grand Jury Date(s): _____

Nature of case(s):

48. If prior experience as a criminal case juror, did your trial reach a verdict?

Yes No

And, were you the foreperson? Yes No

a. Was there anything about your jury experience that would make it difficult to serve fairly and impartially in this case?

Yes No

Explain: _____

b. Describe whether serving on a jury was a positive or negative experience and why.

49. Have you or anyone close to you taken any legal action or had any dispute with the United States or any of its agencies, or any officer, agent or employee of the United States?

If Yes, please explain the dispute and your interest in the proceedings:

50. Are you a vendor or contractor for the United States Government or do work with one?

Yes No

Explain: _____

51. Have you, any member of your family, or anyone close to you ever been the victim of a crime of violence, reported or not?

Yes No

If Yes, please state who (relation to you), when and what happened.

a. Was there an arrest? Yes No

b. What was the outcome?

c. Do you believe that this experience would interfere with your ability to serve as a fair and impartial juror in this case?

Yes No Unsure

52. Have you or anyone close to you ever been accused, arrested, charged or convicted of a crime, other than a traffic ticket? Yes No

If Yes, please state who (relation to you), when and what happened.

53. Have you or anyone close to you ever been falsely accused of a crime?

Yes No

Explain: _____

54. Have you, or has any member of your family with whom you resided at the time, or a close friend, ever been employed by or received training from any local, state or federal law enforcement agency, including but not limited to the following (circle as many as apply for each category) ?

Self **Relative** **Friend**

Federal Bureau of Investigation:

U.S. Attorney:

Bureau of Alcohol, Tobacco

Firearms & Explosives:

U.S. Citizenship and

Immigration Services, and

Bureau of Immigration and

Customs Enforcement

(formerly known as Immigration
and Naturalization Services):

Department of Homeland

Security:

Drug Enforcement
Administration:
Military Police:
Department of Corrections:
State Police:
Office of District Attorney:
United States Marshal
Service:
New York City Police:
Department U.S. Bureau of Prisons:
Department of Probation and Parole:
Other:

If yes, do you believe this would affect your ability to serve as a fair and impartial juror and, if so, how?

Yes No Unsure

Explain: _____

Military Experience

55. Have you or any member of your immediate family ever served in the military (including the National Guard and the reserves)?

Yes No

56. If yes, have you or any member of your family, or close personal friend, ever served in the Middle East, including Iraq, Afghanistan, and or in the first or second Gulf Wars?

Yes _____ No _____

If yes, describe the branch and the nature of the service and the approximate dates: _____

57. Have you, a family member, close friend or acquaintance been injured or killed while serving in a combat or military zone in Iraq, Afghanistan or elsewhere in the Middle East?

Yes No

If Yes, please explain who (relation to you), where, when and circumstances of injury or death: _____

If yes to any of the above questions, do you believe this would affect your ability to serve as an impartial juror in this case and, if so, how?

Yes No Unsure

Explain: _____

58. Do you know anyone who now resides, or in the past resided in the Middle East, South Asia, including Pakistan and the areas around Pakistan, or Africa?

Yes No

If yes, please identify. _____

59. Do you have a family member or a friend who is currently, or who has previously been, as either a member of the armed forces or as a contractor for a government agency, involved in the war effort in Afghanistan, Iraq, or the 2011 Libyan Revolution, or any aspect of the war on terrorism overseas?

Yes No

If yes, please specify location, and explain: _____

Personal Beliefs/Experiences

60. The gentlemen charged in this case are from Egypt, Saudi Arabia and Libya and all are practicing Muslims. Is there anything about their origin or religion that would affect your ability to be fair and impartial to them?

Yes No Unsure

Explain: _____

61. We expect we may hear evidence regarding the particular governmental regimes in Egypt, Saudi Arabia and or Libya. Are you knowledgeable or have you had experience with the culture, politics or economy of any of the countries?

Yes No

Explain: _____

a. If yes, how would that affect, if at all, the way in which you would evaluate evidence in this case? _____

62. Do you speak, read or understand Arabic (or any dialect of Arabic) or did you grow up in households where Arabic or any of its dialects were spoken?

Yes No

63. Do you read any Arabic language newspapers or publications or watch any Arabic language television programs, including newscasts?

Yes No

If so, please list them: _____

64. If you speak, read or understand the Arabic language (or any of its dialects), would you have any difficulty relying solely upon the official interpreter's translation of testimony, and witnesses' translations of the evidence?

Yes No Unsure

65. Have you ever traveled to any of the following countries for any reason

Afghanistan Saudi Arabia Sudan Kenya Libya Egypt England

Yes No

66. Have you ever traveled to any of the following cities for any reason?

Peshawar Nairobi London Tripoli Dar es Salaam

a. As a result of your travel to these places, is there anything about those experiences that would affect your ability to be fair and impartial in a case that most likely will have evidence originating from those countries and cities?

Explain: _____

67. Have you, any family member or anyone you know well ever visited or worked in a civilian, or non-military government capacity anywhere in the Middle East or North Africa?

Yes No

68. If yes, please identify the countries visited, the time period the visit occurred, and the reason for the travel, visit or employment: Do you know anyone who presently resides in North Africa or the Middle East?

Yes No Unsure

If yes, who and where? _____

69. Do you have any specialized knowledge of, or expertise in, issues related to terrorism, religious fundamentalism, the Middle East, Afghanistan, or al Qaeda?

Yes No

Explain: _____

70. How closely did you follow the media coverage of the events involving the bombing of U.S. embassies in Kenya and Tanzania?

____ Closely ____ Moderately _____ Not at all

71. How closely did you follow the previous Embassy Bombing trial in New York concerning the attacks on the U.S. embassies in Kenya and Tanzania?

____ Closely ____ Moderately _____ Not at all

72. Does the fact that this case involves a crime of massive violence cause you to question whether you can sit as a fair and impartial juror?

Yes No Unsure

Explain: _____

73. The evidence in this case may describe the deaths of hundreds of people caused by the events at the U.S. embassies in Kenya and Tanzania. Might the detailed description of their deaths in any way impact or affect your ability to sit as a fair and impartial juror in the case?

Yes No Unsure

Explain: _____

74. The evidence in this case may include descriptions given by family members of the victims regarding the impact of losing their spouse, child, parent or sibling, friend or co-worker as a result of the embassy terrorist attacks. Might listening to this type of testimony in any way impact or affect your ability to sit as a fair and impartial juror in this case?

Yes No Unsure

Explain: _____

75. Under the U.S. Constitution, a person accused of a crime does not have to testify in his defense, and his silence may not be used against him. How do you feel about that?

76. If a person does not tell his side of the story, do you feel he is more likely guilty?

Yes No Unsure

Why or why not? _____

What might cause a person to decide not to testify?

77. You may hear testimony in this case from informants who may be convicted felons and have received special treatment or favors from the Government in exchange for their testimony.

a. How do you feel about the use of informants? _____

Juror Number: _____

b. How do you feel about the government use of informants in a case involving allegations of terrorism or support of terrorism? _____

c. The Court will instruct you that you may give whatever weight you choose to the testimony of an informant. What would be important to you in considering that testimony? _____

78. There will be evidence in this case about the activities of American and/or foreign intelligence agencies. Do you have any opinions about American intelligence services or foreign intelligence services? Yes ___ No ___

Would those opinions affect your ability to be fair and impartial in this matter.

Yes No Unsure

Explain: _____

79. Would you always believe law enforcement officer over other witnesses?

Yes No

Why or why not? _____

80. The United States has the burden of proving its case beyond a reasonable doubt. This burden never shifts to the defendants. They are presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence presented in Court, decides their guilt has been proved beyond a reasonable doubt.

Do you believe a person is innocent of the charges against him until proven otherwise?

Yes No Unsure

Do you believe that just because someone is charged with a crime and is brought to trial that he is probably guilty of something?

Yes No Unsure

Would you have any difficulty following this rule where the defendants are Muslim and Arab?

Yes No Unsure

Explain: _____

81. Do you have feelings about the prosecution of accused terrorists in courts like this that you believe would interfere with your ability to serve fairly and impartially as a juror in this case?

Yes No Unsure

Explain: _____

82. Do you believe that the protections of free speech extend both to citizens and non-citizens?

Yes No Unsure

Explain: _____

83. Do you believe that the criticism of United States foreign policy is protected free speech under the First Amendment to the U.S. Constitution, regardless of who the speaker might be?

Yes No Unsure

Explain: _____

84. In your opinion, does the advocacy of unpopular political opinions, in a time of war, equate to support for international terrorism?

Yes No Unsure

Explain: _____

85. At the conclusion of this case it is the Court's task and duty to charge you on the law and explain to you the elements of the crimes charged. Do you have any personal, religious, philosophical or other beliefs as to what the law is or should be that would make it difficult for you to follow the instructions of the Court?

Yes No Unsure

Explain: _____

a. If the law did not comport with your religious beliefs, could you set aside your religious beliefs and follow the law? ____ Yes ____ No

86. Is there anything about the nature of the charges in this case or the people accused that would affect your ability to fairly evaluate the evidence to determine whether or not the prosecution has proven the guilt of the defendants beyond a reasonable doubt?

Yes No Unsure

Explain: _____

87. Have you had any experience, positive or negative, involving a person whose race, gender, nationality, or religion is different than yours which may affect your ability to be a fair and impartial juror in this case?

Yes No Unsure

Explain: _____

88. If you are selected to serve as a juror on this case, would you be concerned about reactions to the verdict by:

Friends

Relatives

Coworkers

Neighbors

Members of your church, synagogue, mosque or other house of worship

89. If, during the course of jury deliberations, a fellow juror should suggest that you disregard the law or the evidence, and decide the case on other grounds, would you, as a juror, be able to reject the suggestion and abide by your oath to this Court to decide the case solely on the evidence and law as the Court has instructed you to do, without regard to sympathy, bias, or prejudice?

Yes No Unsure

90. Is there any reason you could not be completely fair to the defendants in this case?

Yes No Unsure

Explain: _____

91. Is there any reason you could not be completely fair in evaluating the U.S. government's case?

Yes No Unsure

Explain: _____

92. Is there any matter not covered by this questionnaire that you think is important to bring to the attention of the Court?

Yes No Unsure

Explain: _____